IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.91 OF 2006

M/s.Pramod Kumar Jain
Securities Pvt.Ltd. ...Petitioner

Vs.

1. Mrs.Manjula Mehta
2. M/s.Shareshoppe. ...Respondents.

Mr.Bergis Somandy i/b. Vinod Juwale, for Petitioner.

Ms.M.V.Thakkar i/b. R.V.Thakkar & Ms.S.V.Thakkar, for Respondent no.1.

Mr.C.Abuwala i/b. Dire & Co. for Respondent no.2.

CORAM: D.K.DESHMUKH, J.

DATED: 24th April,2006

P.C.:-

1. By this petition the petitioner challenges the Award made by the Appellate Tribunal of the Bombay Stock Exchange. The Appellate Tribunal of Bombay Stock Exchange has made the Award against the petitioner observing that the transactions were

between the respondent no.1-claimant and the respondent no.2 who was the sub-broker of the petitioner, and the Respondent no.2 has admitted the liability. Because the respondent no.2 was admittedly the sub-broker of the petitioner, the moment the respondent no.2 admits its liability, the Arbitral Tribunal is justified in passing the award against the petitioner also. If according to the present petitioner, respondent no.2 sub-broker was not justified in admitting liability, the remedy is to proceed against the sub-broker for recovery of the amount which it is forced to pay because of wrong admission. Once respondent no.2 sub-broker admits the liability, the third party which has entered into the agreement with the respondent no.2 on the representation made by the petitioner that for the transactions entered into with his sub broker he can be held liable, the third party cannot be asked to contest the litigation against the petitioner who appointed the sub-broker to show that the petitioner is also liable. In my opinion, the findings recorded are possible to be recorded on the basis of the material available on record. I do not see any reason to interfere with the Award in the limited jurisdiction of this Court under Section 34 of the

Arbitration and Conciliation Act,1996. Therefore, the petition fails and is dismissed. The petitioner to pay cost of this petition to the respondent no.1 as incurred by the respondent no.1.